IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2287 OF 2006
IN
NOTICE OFMOTION NO. 3669 OF 2005
IN
M.J.PETITION NO. 6274 OF 1999

AFTAB ALTAF KAZI ... PLAINTIF
... NONAPPLICANT.

VS.

ALTAF FAZALUDDIN KAZI ... DEFENDANT
... APPLICANT.

MRS. AMARJIT KAUR FOR THE PLAINTIFF TO OPPOSE THENOTICE OF MOTION.
MS. ARCHANA KHAN FOR THE DEFENDANT IN SUPPORT OF THE NOTICE OFMOTION.

CORAM : S.K.Shah, J.
DATE : August 2, 2006

P.C. :

1. Heard the learned Counsel on both the sides.

2. This motion is taken out for restoration of Notice of Motion No. 3669 of 2005, which came to be dismissed for default.

3. The reasons for non appearance of the advocate on which the motion came to be dismissed was that the learned Counsel appearing for the Petitioner had sustained a fracture, however, she had instructed some lawyer to attend the matter before this Court. However, that lawyer was having some matter in another Court and, therefore, on that day, he could not appear before this Court, as such the matter came to be dismissed for default.

4. It appears that the learned Counsel for the Petitioner has been attending the matter regularly on

the dates fixed in the matter, however, on the day on which the matter came to be dismissed, no one appeared on behalf of the Petitioner. Under the circumstances, I feel that the party should not suffer. Therefore, the notice of motion needs to be allowed in the interest of justice.

5. Consequently the notice of motion is made absolute in terms of prayer clause (a).

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[S.K.Shah, J.]